

FILED 19 JUN 2012 16:27 USDC-OR

## UNITED STATES DISTRICT COURT

## DISTRICT OF OREGON

UNITED STATES OF AMERICA.

Case No. 3:11-CR-00202-MO

Plaintiff,

SECOND SUPERSEDING  
INDICTMENT

v.

**TU NGOC TRAN; MINH THY NGOC  
NGUYEN, aka Minh Thy Nguyen, Minaty  
Nguyen, Minthy Nguyen, Minhty  
Nguyen; and HUY ANH NGUYEN**

Defendants.

18 U.S.C. § 2;  
18 U.S.C. § 982;  
18 U.S.C. § 1014  
18 U.S.C. § 1349  
18 U.S.C. § 1343  
18 U.S.C. § 2  
21 U.S.C. § 841(a)(1);  
21 U.S.C. § 841(b)(1)(A)(vii);  
21 U.S.C. § 841(b)(1)(B)(vii);  
21 U.S.C. § 846  
21 U.S.C. § 853  
21 U.S.C. § 963  
18 U.S.C. §§ 981(a)(1)(C), and 982(b)  
21 U.S.C. § 853(p)  
28 U.S.C. § 2461(c)

## THE GRAND JURY CHARGES:

COUNT 1  
CONSPIRACY TO MANUFACTURE AND DISTRIBUTE MARIJUANA

Beginning on or before October 2, 2009, and continuing through January 7, 2011, within the District of Oregon, the Western District of Washington and elsewhere, defendants **TU NGOC TRAN, MINH THY NGOC NGUYEN, aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and HUY ANH NGUYEN**, knowingly and intentionally combined, conspired, confederated and agreed with each other, and with other persons known and unknown to the Grand Jury, to commit the following offenses against the United States:

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(a) to manufacture marijuana, a Schedule I controlled substance, to wit: more than one thousand (1000) marijuana plants, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1); 841(b)(1)(A)(vii);

(b) to possess with intent to distribute, and to distribute marijuana, a Schedule I controlled substance in violation of Title 21, United States Code, Sections 841(a)(1); 841(b)(1)(A)(vii);

All in violation of Title 21, United States Code, Sections 846 and 963.

**COUNT 2**  
**MANUFACTURING MARIJUANA**  
**Rocky Butte Property**

Beginning on or before March 4, 2010, and continuing through December 21, 2010, in the District of Oregon, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN, aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and HUY ANH NGUYEN** knowingly and intentionally manufactured marijuana, a Schedule I controlled substance, to wit: more than one hundred (100) marijuana plants, a Schedule I controlled substance, in violation of Title 18, United States Code, Section 2 and Title 21, United States Code, Sections 841(a)(1); 841(b)(1)(B)(vii).

**COUNT 3**  
**MANUFACTURING MARIJUANA**  
**Bella Vista Property**

Beginning on or before October 2, 2009, and continuing through December 21, 2010, in the District of Oregon and the Western District of Washington, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN, aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and HUY ANH NGUYEN** knowingly and intentionally manufactured marijuana, a Schedule I controlled substance, to wit: more than one hundred (100) marijuana plants, a Schedule I controlled substance, in violation of Title 18, United States Code, Section 2 and Title 21, United States Code, Sections 841(a)(1); 841(b)(1)(B)(vii).

**COUNT 4**  
**MANUFACTURING MARIJUANA**  
**Pacific Property**

Beginning on or about August 6, 2010, and continuing through December 21, 2010, in the District of Oregon, defendants **TU NGOC TRAN** and **HUY ANH NGUYEN**, knowingly and intentionally manufactured marijuana, a Schedule I controlled substance, to wit: more than one hundred (100) marijuana plants, a Schedule I controlled substance, in violation of Title 18, United States Code, Section 2 and Title 21, United States Code, Sections 841(a)(1); 841(b)(1)(B)(vii).

**COUNT 5**  
**FALSE STATEMENT ON A LOAN APPLICATION**

1. Between October 19, 2009, and December 31, 2009, in the District of Oregon, defendants **TU NGOC TRAN** and **HUY ANH NGUYEN** knowingly made false statements on a loan application for the purpose of influencing the action of a mortgage lending business, namely, Academy Mortgage, a financial institution under 18 United States Code, Section 20, in connection with an application, purchase, purchase agreement, commitment, and loan, in that defendants **TU NGOC TRAN** and **HUY ANH NGUYEN**:

a. Falsely represented that 2915 NE Rocky Butte Road, Portland, Oregon, 97220 would be his primary residence, when in truth and in fact, defendants **TU NGOC TRAN** and **HUY ANH NGUYEN** knew that statement was false, and knew that **HUY ANH NGUYEN** did not intend to use, and did not use, 2915 NE Rocky Butte Road, Portland, Oregon, 97220 as his primary residence; and

b. Falsely represented to Academy Mortgage that no portion of the down payment for the purchase of the real property at 2915 NE Rocky Butte Road, Portland, Oregon, 97220 was borrowed when in truth and in fact, defendants **TU NGOC TRAN** and **HUY ANH NGUYEN**

knew that statement was false, all in violations of Title 18, United States Code, Sections 2 and 1014.

**COUNT 6**  
**CONSPIRACY TO COMMIT WIRE FRAUD AFFECTING A**  
**FINANCIAL INSTITUTION**

**I. INTRODUCTION**

At all times material to this Second Superseding Indictment:

1. Academy Mortgage Corporation was a mortgage lending institution engaged in the business of providing mortgage loans to qualified applicants, and is a financial institution under 18 United States Code, Section 20.
2. Fidelity National Title Company of Oregon was a real estate closing agency responsible for preparing settlement statements and receiving and disbursing mortgage proceeds and other funds pursuant to the closing instructions provided by the lender.
3. “Straw Buyer” A “straw buyer” is an individual willing to enter into a purchase agreement for real property as well as apply for and receive a residential mortgage loan using false financial information, with no intent to live in the residence or personally make any mortgage payments.

**II. OBJECTS OF THE CONSPIRACY**

4. From September 15, 2009, through on or about December 31, 2009, within the District of Oregon, the Western District of Washington and elsewhere, defendants **TU NGOC TRAN, MINHTHY NGOC NGUYEN** aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and **HUY ANH NGUYEN**, conspired and agreed, together with others known and unknown to the grand jury, to commit Wire Fraud (a violation of 18 U.S.C. § 1343); all in violation of Title 18 United States Code, Section 1349.

### III. MANNER AND MEANS OF CONSPIRACY

5. The purpose of the conspiracy was to deceive Academy Mortgage Corporation, a mortgage lending institution, into providing a loan to straw buyers defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen for the real property located at 2915 NE Rocky Butte Road, Portland, Oregon.

6. It was part of the conspiracy that defendants **TU NGOC TRAN** and **MINH THY NGOC NGUYEN**, acting personally and through the control of the straw buyers, defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, would purchase the real property located at 2915 NE Rocky Butte Road, Portland, Oregon.

7. It was part of the conspiracy that defendants **TU NGOC TRAN** acting personally and through the control of the straw buyers, defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, would represent through a gift letter that a loan of \$150,000 from a third party, Long C. Vo, was a gift to the straw buyers defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, that did not need to be repaid.

8. It was part of the conspiracy that defendants **TU NGOC TRAN** and **MINH THY NGOC NGUYEN** would provide Long C. Vo with a financial interest in another parcel of real property as security for the loan by placing a lien against the real property located at 14119 SE Bella Vista Circle, Vancouver, Clark County, Washington, in the form of a Trust Deed, while representing that loan to be a gift to Academy Mortgage Corporation.

9. It was part of the conspiracy that defendants **TU NGOC TRAN** and **MINH THY NGOC NGUYEN** assured defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen that they would never be personally required to make a payment or incur an expense for any real property and mortgage loan acquired and obtained in their names.

10. It was further part of the conspiracy that defendants **TU NGOC TRAN** and **MINH THY NGOC NGUYEN**, acting personally and through the control of the straw buyers, defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, would complete uniform residential loan applications (URLAs or Fannie Mae Forms 1003,) on behalf of the straw buyers that falsified the straw buyers' intention to occupy the property as their primary residence, and made materially false representations and pretenses and fraudulent omissions related to the straw borrowers' source of funds for down payment on the URLAs for the purpose of inducing Academy Mortgage Corporation to lend, wire and disburse through its closing agent the mortgage loan proceeds it had wired to and entrusted with its closing agent. It was further part of the conspiracy that defendant **TU NGOC TRAN**, acting personally and through the control of the straw buyers, defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, would complete a Deed of Trust containing false information, an Occupancy Agreement containing false information, and an Affidavit of Pending Liens containing false information for the purpose of inducing Academy Mortgage Corporation to lend, wire and disburse through its closing agent the mortgage loan proceeds it had wired to and entrusted with its closing agent.

11. It was further part of the conspiracy that defendant **TU NGOC TRAN**, acting personally and through the control of the straw buyers defendant **HUY ANH NGUYEN**, and Kiet Anh Nguyen, or others, would submit the false URLAs to Fidelity National Title Company of Oregon, and, if required, would supplement the ULRAs with false supporting documentation. This was done all with the intent that the mortgage lender Academy Mortgage Corporation would approve the mortgage loan based upon the false statements contained in the URLAs, including the identity of the straw buyers as the prospective occupants, and the materially false financial information.

12. It was further part of the conspiracy that **TU NGOC TRAN**, acting personally and through the control of the straw buyers defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, or others, would cause Academy Mortgage Corporation to fund the loan by means of wire transfers in interstate or foreign commerce.

#### **IV. OVERT ACTS**

13. In or about September 2009, defendants **TU NGOC TRAN** and **MINH THY NGOC NGUYEN** solicited defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen to be straw buyers for the property located at 2915 NE Rocky Butte Road, Portland, Oregon.

14. Between October 2009 and December 3, 2009, defendant **TU NGOC TRAN** acting personally and through the control of the straw buyer defendant **HUY ANH NGUYEN** created an URLA in defendant **HUY ANH NGUYEN**'s name that contained false information regarding defendant **HUY ANH NGUYEN**'s intention to occupy the property located at 2915 NE Rocky Butte Road, Portland, Oregon, as his primary residence, and also contained materially false financial information.

15. Between October 2009 and December 3, 2009, defendant **TU NGOC TRAN**, acting personally and through the control of the straw buyer Kiet Anh Nguyen created an URLA in Kiet Anh Nguyen's name that contained false information regarding Kiet Anh Nguyen's intention to occupy the property located at 2915 NE Rocky Butte Road, Portland, Oregon, as his primary residence, and also contained materially false financial information.

16. Between October 2009 and December 3, 2009, defendant **TU NGOC TRAN**, acting personally and through the control of the straw buyers defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen created a Deed of Trust containing false information, an Occupancy

Agreement containing false information, and an Affidavit of Pending Liens containing false information.

17. In or about December of 2009, defendant **TU NGOC TRAN** acting personally and through the control of the straw buyers defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen, submitted the two URLs containing false information, a Deed of Trust containing false information, an Occupancy Agreement containing false information, and an Affidavit of Pending Liens containing false information to Fidelity National Title Company of Oregon with the intent that the mortgage lender Academy Mortgage Corporation would approve the mortgage loan based upon the false statements contained in the documents.

18. At the time the two URLs containing false information, the Deed of Trust containing false information, the Occupancy Agreement containing false information, and the Affidavit of Pending Liens containing false information were submitted to information to Fidelity National Title Company of Oregon with the intent that the mortgage lender Academy Mortgage Corporation would approve the mortgage loan, defendants **TU NGOC TRAN, MINHTHY NGOC NGUYEN** and **HUY ANH NGUYEN** knew the documents all contained material misstatements, including the fact that **HUY ANH NGUYEN** and Kiet Anh Nguyen were straw buyers, the fact that defendants **TU NGOC TRAN** and **MINHTHY NGOC NGUYEN** were the true purchasers of the real property, the source of the funds used to purchase the property, and false financial information for the straw buyers.

19. Between October 2009 and December 31, 2009, defendant **TU NGOC TRAN** caused defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen to submit the two URLs, the Deed of Trust, the Occupancy Agreement, and the Affidavit of Pending Lien, and other documents in support of the loan application to Academy Mortgage Corporation. Academy Mortgage

Corporation approved the loan, unaware of the fraudulent nature of the sale and the false financial information contained in the two URLAs, the Deed of Trust, the Occupancy Agreement, and the Affidavit of Pending Liens submitted by defendant **HUY ANH NGUYEN** and Kiet Anh Nguyen.

20. On or about December 28, 2009, defendant **MINHHTHY NCOG NGUYEN** became the subscriber for a utility at 2915 NE Rocky Butte Road, Portland, Oregon.

21. On or about December 31, 2009, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN** and **HUY ANH NGUYEN**, and others known and unknown to the grand jury, caused to be transmitted by means of wire communication, in interstate commerce, writings, signs, signals pictures, and sounds, to wit: the wire transfer of mortgage loan proceeds in the amount of \$346,859.86 from Academy Mortgage Corporation in Salt Lake City to Portland, Oregon. All in violation of Title 18, United States Code, Sections 1343 and 1349.

**COUNT 7**  
**WIRE FRAUD**

1. The grand jury re-alleges each and every allegation in all of the paragraphs of Count 6 of this Second Superseding Indictment and incorporates them as if fully set forth herein.

2. From on or about, September 15, 2009, through at least December 21, 2010, in the District of Oregon, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN** aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and **HUY ANH NGUYEN**, aided and abetted by each other and others known and unknown to the grand jury, devised a material scheme and artifice to defraud and to obtain money from mortgage lending institution Academy Mortgage Corporation, by materially false and fraudulent pretenses and representations. The material scheme and artifice to defraud is more particularly set forth in each of the paragraphs in Count 6 of this Second Superseding Indictment.

3. On or about the December 31, 2009, in the District of Oregon and elsewhere, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN and HUY ANH NGUYEN**, aided and abetted by each other and by others known and unknown to the grand jury, for the purpose of executing the aforementioned material scheme and artifice to defraud, and attempting to do so, did knowingly cause to be transmitted in interstate commerce by means of wire communications, signals, and sounds, that is, wire transfers of money across state lines. On December 31, 2009, defendants caused \$346,859.86 to be wired from Academy Mortgage Corporation in Salt Lake City to Portland, Oregon.

All in violation of Title 18, United States Code, Sections 1343 and 2.

**FORFEITURE ALLEGATION**  
**CONSPIRACY TO MANUFACTURE AND DISTRIBUTE MARIJUANA**

Upon conviction of one or more of the controlled substance offenses alleged in Counts 1, 2, 3, and 4 of this Second Superseding Indictment, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN** aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and **HUY ANH NGUYEN**, shall forfeit to the United States pursuant to 18 United States Code, Section 982 and 21 United States Code, Section 853, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the said violations and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the said violations, including but not limited to the following:

**PROCEEDS**

A sum of money equal to \$50,000 in United States currency, representing the amount of proceeds obtained as a result of the offense, Conspiracy to Manufacture and Distribute Marijuana for which the defendants are jointly and severally liable.

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**REAL PROPERTY**

1. All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at **2915 NE Rocky Butte Road, Portland, Multnomah County, Oregon**, real property with buildings, appurtenances, and improvements, and more particularly described as:

LOT 10, BLOCK 2, OLYMPUS ESTATES, IN THE CITY OF PORTLAND,

MULTNOMAH COUNTY, STATE OF OREGON

2. All the lots or parcels of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at and adjacent to **14119 SE Bella Vista Circle, Vancouver, Clark County, Washington**, real property with buildings, appurtenances, and improvements, and more particularly described as:

**Parcel # 91600-000:**

Lots 8 and 9, BELLA VISTA, according to the plat thereof, recorded in Volume D of Plats, Page 25, records of Clark County, Washington. EXCEPT the South 200 feet thereof, according to the plat thereof, recorded in Volume D of Plats, Page 25, records of Clark County, Washington.

Lot 20, BELLA VISTA, according to the plat thereof, recorded in Volume D of Plats, Page 25, records of Clark County, Washington.

**Parcel # 91460-00:**

Lot 6, BELLA VISTA, according to the plat thereof, recorded in Volume D of Plats, Page 25, records of Clark County, Washington.

**Parcel # 91610-000 and 91620-000:**

Lots 21 and 22, BELLA VISTA, according to the plat thereof, recorded in Volume D of Plats, Page 25, records of Clark County, Washington, lying West of the following described line:

beginning at the Northwest corner of Lot 5; then Northerly to a point of intersection of the Southerly line of Primary State Highway #8 and the West line of Lot 22 and the terminus of said line. TOGETHER WITH the vacated 20 foot County Road lying North of and abutting Lot 6 of said plat. EXCEPT that portions of Lots 21 and 22, conveyed to the State of Washington by deed recorded under Auditor's File No. G 115758 and G 116918.

3 **CONVEYANCES**

- a) a silver 2004 Acura MDX, VIN 2HNYD18894H514626 registered to Mihnthy Nguyen ;
- b) a grey/silver 1998 BMW M3, VIN WBSBK0332WEC38528 registered to Mihnthy Nguyen;
- c) a 2005 grey Porsche Cayenne SUV, VIN WPIAA29P75LA24524, registered to Mihnthy Nguyen; and
- d) a 2001 silver Lexus sedan, VIN JTHBD182810019596 registered to Huy Nguyen.

If any of the above-described forfeitable property in the forfeiture allegations, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 United States Code, Section 853(p), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

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### **FORFEITURE ALLEGATION**

Upon conviction of one or both of the wire fraud offenses alleged in Counts 6 and 7 of this Second Superseding Indictment, defendants **TU NGOC TRAN, MINHHTHY NGOC NGUYEN** aka Minaty Nguyen, aka Minthy Nguyen, aka Minhty Nguyen, and **HUY ANH NGUYEN** shall forfeit to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property constituting or derived from proceeds obtained directly or indirectly as a result of the violations of Wire Fraud (18 U.S.C. § 1343).

1. **PROCEEDS**

A sum of money in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Counts 6 and 7 of this Second Superseding Indictment.

2. **SUBSTITUTION OF ASSETS**

If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C.

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§ 982(b), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

Dated this 19<sup>th</sup> day of June 2012.

A TRUE BILL.

  
OFFICIATING FOREPERSON

Presented by:

S. AMANDA MARSHALL  
United States Attorney

  
JENNIFER J. MARTIN, OSB#84285  
ROBERT NESLER, OSB#85379  
ANNEMARIE SGARLATA, OSB#06506  
Assistant United States Attorneys